



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

NB:AXB
F. #2017R01784

*610 Federal Plaza
Central Islip, New York 11722*

September 12, 2022

By ECF

Hon. Sterling Johnson, Jr.
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Enock Mensah
Criminal Docket No. 19-CR-60 (S-1) (SJ)

Dear Judge Johnson:

The government respectfully submits this letter in connection with the sentencing of defendant Enock Mensah in the above-captioned matter.

I. Background and Procedural History

On or about December 10, 2019, following a one-week trial, a jury convicted the defendant of health care fraud and theft of government services, as alleged in a superseding indictment filed on August 30, 2019. See Docket Entries (“DE”) 73, 109. Immediately following the verdict, the Court scheduled sentencing for March 10, 2020. See Electronic Order dated Dec. 10, 2019.

Thereafter, on January 30, 2020, the defendant filed post-trial motions for a judgment of acquittal and/or a new trial under Federal Rules of Criminal Procedure 29 and 33. (DE 112.) The government opposed the motions on February 28, 2020. (DE 114.) On May 28, 2020, while the post-trial motions were pending, the United States Probation Office disclosed the Presentence Investigation Report (“PSR”) and on September 14, 2020, disclosed an addendum to the PSR. On October 8, 2020, the Court issued a Memorandum and Order denying the defendant’s post-trial motions. (DE 121.)

Meanwhile, sentencing was successively adjourned from March 10, 2020, to June 11, 2020; then to September 29, 2020; then to January 14, 2021; then to February 23, 2021; and then to April 8, 2021.¹

On March 12, 2021, following the resolution of the defendant's motions, both parties filed sentencing memoranda. (DE 123, 124.) On March 22, 2021, the defendant also filed objections to the PSR. (DE 125.) On May 18, 2021, the government filed a supplemental sentencing memorandum. (DE 129.) And on December 10, 2021, the defendant filed a supplemental memorandum. (DE 132.)

Throughout that period, sentencing was further adjourned from April 8, 2021, to June 30, 2021; then to October 26, 2021; then to December 14, 2021; then to January 25, 2022; then to May 12, 2022; and most recently to September 13, 2022.²

On September 9, 2022, the parties were advised by the Court's case manager that the Court would be unavailable to proceed with sentencing on September 13, 2022 and would not become available until approximately January or February 2023. As such, the parties were advised to either: (i) consent to further adjourn sentencing to a date in early-2023; or (ii) request that the matter be reassigned in order to proceed to sentencing sooner.

II. The Parties' Requests Concerning Sentencing

Counsel for the government and the defendant have conferred and take diverging positions on how to proceed in this matter.

For his part, after consultation with his counsel, the defendant requests that the matter not be reassigned and requests that the Court reschedule his sentencing for a date convenient to the Court in February 2023.

In contrast, the government requests reassignment and the prompt imposition of sentence. In that regard, the government notes that approximately two years and nine months have elapsed since the defendant's conviction, and more than two years have elapsed since Probation disclosed the PSR and the parties filed their initial sentencing memoranda. All the while, the defendant has remained at liberty awaiting sentence and unable to exercise his appellate rights unless and until a final judgment in this case issues. In the government's view, it would be in the interests of the defendant and the public—including and especially the victims in this case—as well as the interest of justice, to take such steps as are necessary to ensure the prompt resolution of this case without further delay. Alternatively, the

¹ See Electronic Orders dated February 5, 2020; May 22, 2020; September 23, 2020; October 1, 2020; and February 9, 2021.

² See Electronic Orders dated March 29, 2021; June 22, 2021; October 8, 2021; December 14, 2021; January 21, 2022; May 3, 2022.

government requests that this matter be rescheduled to the Court's next available date and that no further adjournments be granted.

Respectfully submitted,

BREON PEACE
United States Attorney

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cc: Clerk of Court (SJ) (via ECF and email)
Counsel of Record (via ECF and email)
US Probation Officer Jennifer Fischer (via email)